

Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NORA WILLIAMS,

Plaintiff,

v.

RICHARD V. SPENCER, Secretary of the
Navy,

Defendant.

NO. C16-5945 BHS

DEFENDANT'S
MOTION FOR COSTS

Noting Date: November 16, 2018

Defendant Spencer, by and through Annette L. Hayes, United States Attorney, Western District of Washington, and Patricia D. Gugin, Assistant United States Attorney for said District, as the prevailing party in this matter, hereby submits to the Court this Motion for Costs, pursuant to Fed. R. Civ. P. 54¹ and Local Civil Rule 54, in the amount of \$3,020.23. Defendant's Bill of Costs, which includes documentation in support of each itemized cost, is filed herewith. These costs include the following:

Court reporter fees for the discovery depositions of witnesses David Herriott, Meranda Jackson, Charles Monie, Christopher Murphy, and Nora Williams. *See* 28 U.S.C. § 1920 (2). These costs total \$3,020.23. The costs of these deposition transcripts

¹ The Ninth Circuit has construed Fed. R. Civ. P. 54(d) (1) as creating a "presumption in favor of an award of costs" to the prevailing party. *See, e.g., Save Our Valley v. Sound Transit*, 335 F.3d 932, 945 (9th Cir. 2003).

are recoverable because these depositions were “necessarily obtained for use in the case.” 28 U.S.C. § 1920 (2); *Alflex Corp. v. Underwriters Labs., Inc.*, 914 F.2d 175, 177 (9th Cir. 1990) (holding that statutorily allowable costs include deposition transcripts). Specifically, Defendant Spencer relied on the transcripts in moving for summary judgment. “Depositions are ‘necessarily obtained’ when they are or will be used in connection with trial or summary judgment, for impeachment, or to show damages.” *Gravelle v. Kiander*, Case No. C13-1911JLR (Dkt. #106) at p. 4-5 (granting cost of deposition transcript, which was used for summary judgment motion, and citing cases). In this case, Defendant cited to and relied on these depositions in moving for summary judgment, Dkt. #30, 40, or in responding to Plaintiff’s opposition to Defendant’s motion for summary judgment. *See id.* Therefore, Defendant is entitled to recover his costs.

Dated this 1st day of November, 2018.

Respectfully submitted,

ANNETTE L. HAYES
United States Attorney

s/ Patricia D. Gugin
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee/contractor in the Office of the United States Attorney for the Western District of Washington and is a person of such age and discretion as to be competent to serve papers;

It is further certified that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

Chalmers C. Johnson
Chalmers@gsjoneslaw.com

Dated this 1st day of November, 2018.

/s/ Rebecca L. Clauson
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